

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CESARIO VIZCARRA MEDINA,

Plaintiff,

v.

CDCR, et al.,

Defendants.

Case No. 1:22-cv-00764-ADA-EPG (PC)

ORDER FOR PLAINTIFF TO SHOW
CAUSE WHY THIS CASE SHOULD NOT
BE DISMISSED, WITHOUT PREJUDICE,
FOR FAILURE TO COMPLY WITH A
COURT ORDER, TO PROSECUTE THIS
CASE, AND/OR TO COMPLY WITH
FEDERAL RULE OF CIVIL PROCEDURE
4(M)

TWENTY-ONE DAY DEADLINE

Cesario Medina (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

This case is proceeding on Plaintiff’s Eighth Amendment excessive force claim against Doe ISU Officers 1-3. (ECF Nos. 1, 6, 7, & 9).

As this case is only proceeding against Doe defendants, the Court authorized the issuance of a subpoena so that Plaintiff could seek documents that identify the Doe defendants. (ECF No. 10). The subpoena was served on March 7, 2023. (ECF No. 18).

Additionally, the Court set a deadline for Plaintiff to file a motion to substitute named defendants in place of the Doe defendants. (*Id.*). Plaintiff was warned that “Failure to file a motion to substitute by this deadline may result in the dismissal of the unidentified defendants.” (*Id.* at 2). This deadline was subsequently extended to April 10, 2023. (ECF No. 17).

The extended deadline has passed, and Plaintiff has not filed a motion to substitute or

1 taken any other action in this case. Accordingly, the Court will give Plaintiff an opportunity to
2 show cause why the Court should not issue findings and recommendations to a district judge,
3 recommending that this action be dismissed, without prejudice, because of Plaintiff's failure to
4 comply with a court order, failure to prosecute, and/or failure to comply with Rule 4(m). The
5 Court will vacate this order to show cause if, in response, Plaintiff files a motion to substitute
6 named defendants in place of the Doe defendants, files a motion to compel regarding the
7 subpoena that was served on March 7, 2023, or files a motion for the issuance of a second
8 subpoena for additional documents so that he can attempt to identify the Doe defendants.

9 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

- 10 1. Plaintiff has twenty-one days from the date of service of this order to show cause
11 why this action should not be dismissed, without prejudice, for failure to comply
12 with a court order, failure to prosecute, and/or failure to comply with Rule 4(m); and
13 2. Failure to respond to this order may result in this action being dismissed, without
14 prejudice.

15
16 IT IS SO ORDERED.

17 Dated: April 25, 2023

18 /s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE